

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	Case No. 1:17cr51-1
	)	
Plaintiff,	)	JUDGE SOLOMON OLIVER, JR.
	)	
v.	)	MAGISTRATE JUDGE
	)	THOMAS M. PARKER
MONTEEN TYJUAN CLARK,	)	
	)	
Defendant.	)	<b><u>REPORT AND RECOMMENDATION</u></b>
	)	

Chief Judge Solomon Oliver, Jr. referred this matter to the undersigned, pursuant to General Order 99-49, for purposes for receiving, on consent of the parties, the defendant's offer of a plea of guilty, conducting the colloquy prescribed by Fed. R. Crim. P. 11, causing a verbatim record of the proceedings to be prepared, referring the matter, if appropriate, for presentence investigation, and submitting a Magistrate Judge's Report and Recommendation stating whether the plea should be accepted and a finding of guilty entered. The following, along with the transcript or other record of the proceedings submitted herewith, constitutes the Magistrate Judge's Report and Recommendation concerning the plea of guilty proffered by the defendant.

1. On May 11, 2017, the defendant, accompanied by counsel, proffered a plea of guilty to Count 1 of the Indictment.
2. Prior to such proffer, the defendant was examined as to his competency, advised


of the charge and consequences of conviction, informed that the Federal Sentencing Guidelines are advisory and the Court must consider them. Defendant was advised that under the plea agreement, referred to below, the parties were recommending a definite sentence of 60 months to be imposed; and indicated his awareness that in the event the court did not accept the plea agreement and the recommended sentence, he would be notified by the court and given the right to withdraw his plea of guilty.

Defendant acknowledged that, ultimately, the Court may impose any sentence authorized by law. Defendant, notified of his rights, was advised that he was waiving all his rights except the right to counsel, and, if such were the case, many of his rights to appeal, and otherwise provided with the information prescribed in Fed. R. Crim. P. 11.

3. The parties and counsel informed the court about any plea agreement between the parties, the undersigned was advised that, aside from such agreement as described or submitted to the court, no other commitments or promises have been made by any party, and no other agreements, written or unwritten, have been made between the parties.
4. The parties provided the undersigned with sufficient information about the charged offense and the defendant's conduct to establish a factual basis for the plea, and the defendant acknowledged that he committed the acts alleged in the indictment.
5. The undersigned questioned the defendant under oath about the knowing, intelligent, and voluntary nature of the plea of guilty, and finds that the defendant's plea was offered knowingly, intelligently, and voluntarily.

In light of the foregoing and the record submitted herewith, the undersigned finds that the defendant's plea was knowing, intelligent, and voluntary, and that all requirements imposed by the United States Constitution and Fed. R. Crim. P. 11 have been satisfied. Therefore, the undersigned recommends that the plea of guilty be accepted, the plea agreement be approved and a finding of guilty be entered by the Court.

Dated: May 11, 2017



Thomas M. Parker  
United States Magistrate Judge

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### **OBJECTIONS**

ANY OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within fourteen (14) days of receipt of this notice. Fed. R. Crim. P. 59. Failure to file objections within the specified time constitutes a WAIVER of the right to appeal the Magistrate Judge's recommendation. Id.